Appendix.

FIFTH SUPPLEMENTAL REPORT AND ORDER OF INTERSTATE COMMERCE COMMISSION, PARAGRAPHS N AND O, PAGES 10908-10920.

N. The reorganized company shall acquire as a part of its reorganization all of the properties, franchises, and assets of the Old Colony except those of the Old Colony's Boston group (those covered in Finance Docket No. 12614) upon the terms and conditions as follows:

1 (a) The charter of the reorganized company and of Old Colony shall be amended, and the franchises and statutory obligations of the reorganized company and of Old Colony (including any charter, franchises, and statutory obligations acquired by the reorganized company in connection with the acquisition of the properties, assets, and franchises of any other railroad, and as operator of the Boston group) shall be amended or superseded so that (1) the reorganized company and Old Colony will be relieved of any obligation to continue to use the property of the Boston Terminal Company, and of any obligation to make any payments for such use if and when such use shall be discontinued; (2) the obligation of the reorganized company and Old Colony and their trustees to make payments on account of interest and principal (at maturity or otherwise, including any deficiency on foreclosure or any other claim with respect thereto) of the debt of the Boston Terminal Company represented by its presently outstanding bonds (or any extensions, renewals or refunding thereof) after the date on which the trustees have made the last payments on account of interest on said bonds, shall, so long as the reorganized company (for itself or as operator of the Boston group) shall use the property of the Boston Terminal Company, be satisfied by payment by

the reorganized company of an amount per annum (and at that rate for any period of less than a year) obtained by applying to $275,000 the percentage of the total use of such property from time to time by the principal debtor (including in such percentage prior to the consummation of the plan use by its trustees for itself and as operators of Old Colony and thereafter use by itself and as operator of the Boston group); and (3) the obligation to pay operating expenses shall be limited to the amount of such expenses after deducting all revenues from rentals and concessions; provided, however, that, if the number of passengers using the South Station of the Boston Terminal Company shall substantially increase in the future, this Commission will consider an application by any bondholder of the Terminal Company to make an equitable revision of the amount payable by the reorganized company.

(b) The trustee in bankruptcy of the Boston Terminal Company or any receiver in equity which may hereafter be appointed by any court of competent jurisdiction to manage the property and affairs of such corporation shall have the right to elect whether he will exclude the using bankrupt railroads from further occupation and use of the property of the Boston Terminal Company and file a proof of claim for damages in these proceedings, or will accept the terms proposed in the plan for the continued occupation and use of such property by such railroads and thereby waive all claim of damages arising from the rejection and all claims for compensation for the use of its property other than such compensation as is provided by the plan, such election to be exercised upon the submission to him by this Commission of the plan for acceptance or rejection under section 77 (e) of the Bankruptcy Act and within such time thereafter as this Commission in its order of submission shall fix; provided, however, that if such

trustee or any successor-receiver shall not exercise his election by rejecting the plan within the time thus limited, and shall not file a claim for damages herein within the 2 weeks next succeeding, then such trustee, his successor-receiver, the Boston Terminal Company and its creditors and stockholders shall, each and every one of them, be barred from participating as a creditor or creditors in these proceedings, or from prosecuting any claim for damages against the estate of the using bankrupt railroads.

(c) In the event that on an appeal from an order of the court approving this plan, any features of the plan relating to the obligations of the principal debtor and of the Old Colony to the Boston Terminal Company shall be held to be illegal (to have been inappropriate for judicial approval), if not inconsistent with the directions of the appellate mandate the court may thereupon delete from this order (a) all provisions designed to modify or affect the obligations of the principal debtor to the Boston Terminal Company, or any provisions inconsistent with the appellate opinion, and (b) all provisions relating to the acquisition by the principal debtor of the property and assets of the Old Colony or of the Boston & Providence, or both of them, whereupon this order as thus modified may be deemed to state a separate plan for the reorganization of the principal debtor together with the Hartford & Connecticut Western and the Providence, Warren & Bristol, or, if its provisions for the acquisition of the property and assets of the Old Colony and the Boston & Providence shall not have been deleted, as a comprehensive plan to include the acquisition of such properties upon the terms of the order thus modified.

(2) (a) The charter of the reorganized company and of Old Colony shall be amended, and the franchises and statutory obligations of the reorganized company and of Old

Colony shall be amended or superseded so that neither road will be under any obligation to operate passenger service on Old Colony lines. The reorganized company shall, however, undertake a contractual obligation to operate, for its own account and sole benefit, freight service on the Boston group until such time as it shall acquire the assets and franchises of that group. It shall further undertake a contractual obligation to operate for its own account passenger service on Old Colony lines if and so long as the losses therefrom do not exceed the critical figures provided below. These agreements shall take the form of a stipulation by the reorganized company before the court. The contractual obligation to operate passenger service shall terminate if legislation described below in (c) has not been passed prior to the end of 2 years after consummation of the plan.

(b) The reorganized company shall not be obligated to acquire the assets and franchises of Old Colony's Boston group along with the Old Colony's other assets upon the consummation of the plan, but shall have the right without the payment of further consideration on its part to acquire such assets and franchises at, or at any time after, the consummation of the plan. Until such acquisition, the assets and franchises of the Boston group shall remain in Old Colony, the stock of Old Colony shall be reduced to equal in par value the net salvage value ($2,328,895) of the assets in the Boston group, and the reduced stock shall be held by one or more trustees appointed by the court for the benefit of the holders of Old Colony's bonds (including its banks) at the date of the consummation of the plan. At any time, such trustee or trustees shall, upon demand of the reorganized company, convey to it the assets and franchises of the Boston group or, at the option of the reorganized principal debtor, the reduced Old Colony stock held by them.

(c) The foregoing parts (a) and (b) are subject to the proviso that if the Legislature of Massachusetts shall amend the charter of the reorganized company so that it will be under no charter obligation to operate passenger service on Old Colony lines, and provide that such service shall be operated only by virtue of, and in accordance with, the agreement referred to in (a) above, or shall by legislation provide equivalent protection (such as that resulting from the formation of a transportation district to take over the passenger service on the Boston group), then, upon consummation of the plan, if such legislation be passed prior thereto, or upon the passage of such legislation within 2 years after the consummation of the plan, the Boston group shall be acquired by the reorganized company.

(3) (a) Passenger service on Old Colony's lines may be discontinued if during any of the periods described below passenger losses on Old Colony's lines shall exceed the critical figure at the time in effect. The critical figure for the initial critical period which shall comprise the 2 years following the consummation date or January 1, 1946, whichever shall be the later, shall be $850,000 for any 12 consecutive calendar months falling wholly within said initial critical period. The critical figure for any 24 consecutive calendar months, all of which shall be subsequent to the initial critical period, shall be $500,000. In the event that passenger losses on Old Colony's lines shall exceed the critical figure at the time in effect, and if as a result thereof the reorganized principal debtor or the Old Colony shall elect to discontinue passenger service on Old Colony's lines, the Commonwealth of Massachusetts shall have the option of purchasing that portion of the Boston group lines extending from Boston to Braintree at the salvage value thereof which has been accepted for the pur-

poses of the plan (the proportion of $2,328,895, the salvage value of the entire Boston group lines estimated in 1939, applicable to the Braintree branch), plus the depreciated amount of capital improvements made since the date of the appraisal, said option, however, to be limited to such facilities appurtenant to said Boston-Braintree segment as shall reasonably be required by the Commonwealth of Massachusetts for its passenger operation and subject to a right in the reorganized company or in the Old Colony, as the case may be, to make joint use of such of said facilities as are not reasonably required for the exclusive use of the Commonwealth of Massachusetts; provided, however, that such option shall be valid only for a period of 10 years after the consummation of the plan; and provided further that in the event the Commonwealth of Massachusetts shall exercise the option provided herein, the reorganized principal debtor and the Old Colony shall so far as possible accord to the Commonwealth the right to use the Boston Terminal Company property on the same terms and conditions as possessed by the reorganized principal debtor and the Old Colony. Full jurisdiction shall be reserved to the court to determine at the appropriate time, if future controversies should arise, what facilities are in fact reasonably needed for such passenger operation by the Commonwealth and the salvage value thereof as established by the method indicated in the subsection of the plan, and to enter any and all appropriate orders in the premises.

(b) As a basis for determining whether or not the critical figure in effect at the time is being met, the reorganized company shall keep monthly figures of the amount of passenger loss on Old Colony lines. Those figures shall be based upon the application of the segregation formula as approved by this Commission and the court in this proceeding, and the further apportionment of Old Colony's

revenues and expenses between passenger and freight service under the general principles of this Commission's prescribed rules for separating common revenues and expenses between passenger and freight service, modified where necessary to be consistent with the apportionments made in the segregation formula and in the light of data reasonably available for such separation. The formula for this computation is annexed hereto as exhibit A. The result of such computation shall determine whether or not the critical figure has been met, unless the Department of Public Utilities of Massachusetts shall deem the Commonwealth or the public aggrieved by a proposed discontinuance of passenger service on Old Colony lines pursuant to the authority contained in the plan and claim that the computations of the reorganized company are inaccurate; in which case it may apply to the District Court for the District of Connecticut for the appointment of a master to audit such computations. The result of such audit shall in all respects be given the same effect as the report of a special master. In such case, whether or not the critical figure has been met shall be determined by the computations as the same may be modified in such proceedings.

(c) In the event that on appeal from an order of court approving this plan any feature of section N(2), (a) to (c), inclusive, or of section N(3), (a) and (b) shall be held to be illegal or inappropriate for judicial approval, if not inconsistent with the appellate mandate, the court may thereupon delete from this order (a) the feature or features thus disapproved and (b) all provisions relating to the acquisition by the principal debtor of the property and assets of the Old Colony, whereupon this order as thus modified may be deemed to state a separate plan for the reorganization of the principal debtor together with the Hartford & Connecticut Western and the Providence, Warren & Bristol or, if its provisions for the acquisition

of the Old Colony shall not have been so deleted, as a more comprehensive plan to include the acquisition of the Old Colony as well, upon the terms of the order thus modified.

(4) In consideration of the transfer and conveyance to the reorganized principal debtor of (a) all assets, properties and franchises of Old Colony other than those of its Boston group and (b) the rights set forth above relating to the Boston group, the reorganized company shall issue and deliver to Old Colony's bondholders (including its banks as holders of the bonds pledged to secure their notes) pro rata, at the same time as reorganization securities are distributed to the principal debtor's creditors, in full satisfaction of their rights with respect to such bonds and notes: $4,063,784 of new first and refunding bonds, series A, and $3,047,838 of new income bonds, series A; and the reorganized company shall also issue $857,143 of additional new first and refunding bonds, series A, and $642,857 of additional new income bonds, series A, of which the reorganized company shall deliver as aforesaid so much in principal amount, in the ratio of 32,896 of fixed interest bonds to 24,672 of income bonds, as the actual credit to Old Colony for the year 1943 shall exceed $346,000: and the reorganized company shall also (subject to the limitation provided herein concerning the Boston Terminal Company) assume and pay (a) the reorganization expenses of Old Colony as allowed by the court within the maximum limits fixed by this Commission, (b) current liabilities of Old Colony incurred in the ordinary conduct of its business prior to the institution of its reorganization proceeding which are entitled to priority over the Old Colony's secured obligations, (c) current liabilities and obligations of Old Colony trustees incurred during the reorganization proceeding, (d) any and all taxes due to the United States, the Commonwealth of Massachusetts, and/or any city, town, or other political subdivision there-

of, from the Old Colony or its trustees for any taxable period prior to the date of confirmation of the plan of reorganization, without requiring proof thereof in the reorganization proceeding and without prejudice by reason of not having been approved in such proceeding, subject, however, to the statutes of limitations normally applicable to the assessment and collection of such taxes, and provided further, that the liability of the Old Colony for any taxes which are the subject of litigation on the date of the confirmation of the plan of reorganization, or which may become the subject of litigation on any date thereafter and prior to the expiration of the applicable statutes of limitations, shall be determined pursuant to law, and provided further, that this provision shall not be deemed to preclude either the reorganized company, the Old Colony, or its trustees, from contesting the merits of any such tax in the manner provided by law, and provided further, that with respect to taxes the funds for the payment of which are withheld by the principal debtor's trustees, payment by the reorganized company shall be limited to such portion of the total amount thereof as shall be agreed upon with the proper taxing authorities; provided, however, that nothing herein shall be construed as impairing or disturbing any present or future lien for taxes against any property; and (e) the reorganized company shall assume and discharge any and all other claims against the Old Colony which, as of the date of confirmation of the plan of reorganization, have been allowed by the court, excluding, however, any claims ranking junior to Old Colony's bonds.

(5) All claims against the Old Colony or its trustees held by the principal debtor or its trustees, and all claims against the principal debtor or its trustee or the Bankers Trust Company held by the Old Colony or its trustees shall be released, discharged, and canceled.

(6) Whenever any dividend or distribution is declared on the common stock of the reorganized company, (additional) funds in an amount hereinafter specified shall be set aside in a sinking fund and used for the purchase or redemption and retirement of the reorganized company's income bonds issued under the plan, and, in case all of such income bonds shall have been retired, to the purchase or redemption and retirement of its preferred stock issued under the plan. The funds to be set aside in the sinking fund shall be equal to (1) the aggregate amount of the dividend or distribution declared on the common stock, times (2) the ratio of (a) the amount of the lease claim of the Old Colony as finally allowed by the court (including any interest allowed) to (b) the aggregate amount of the allowed claims (including any allowed interest) of all other unsecured creditors exclusive of the Boston & Providence.

In the event that, as conditionally authorized elsewhere in the plan, the principal debtor is separately reorganized without provision for the reorganization of the Old Colony, and in the event the trustees of the Old Colony are successful in their suit against the Bankers Trust Company, trustee under the first and refunding mortgage of the principal debtor, arising out of the rejection of the Old Colony lease by the trustees of the principal debtor and in the event the Bankers Trust Company successfully asserts a lien for indemnity against the property subject to the first and refunding mortgage, the plan shall be modified so as to provide that the reorganization committee shall reserve a sufficient amount of the reorganization securities distributable to the holders of bonds secured by the first and refunding mortgage and creditors junior thereto as security for the discharge of any balance of the lien recovered by the principal debtor's trustees on account of their administrative claim against the Old Col-

ony's estate as may be properly applicable thereto, and such amount of available cash, which, in the judgment of the reorganization committee, may appropriately be applied for this purpose without impairing or disturbing other provisions of the plan, and the cash position of the reorganized company. To the extent that the reorganization securities distributable to the holders of bonds secured by the first and refunding mortgage shall be required to satisfy this lien, appropriate adjustment, under the supervision of the court, shall be made by a redistribution of the remaining securities at the expense of creditors junior to such holders.

O. The reorganized company shall acquire, as promptly as possible, all of the properties, franchises, and assets of the Boston and Providence Railroad Corporation, hereinafter called the Boston & Providence, on the terms and conditions set out below, such acquisition to take place in the event of, and upon confirmation of, the Boston & Providence plan concurrently approved by us in Finance Docket No. 12131.

(1) The plan of reorganization of the Boston & Providence will, as to charter, franchise, and statutory obligations of the Boston & Providence, confirm the limitations set forth in section N (1) of this order and provide that, with respect to the Boston Terminal Company, the obligations of the Boston & Providence shall be no greater than those of Old Colony therein set forth.

(2) In consideration for the transfer and conveyance to the reorganized company of all assets and property of the Boston & Providence, the reorganized company shall issue and deliver to the Boston & Providence trustees $3,039,213 of its first and refunding bonds, series A, $1,467,520 of its income bonds, series A, and $1,467,520 of its preferred stock, series A, and the reorganized company shall also (subject to the limitation provided herein con-

cerning the Boston Terminal Company) assume and pay (a) the reorganization expenses of the Boston & Providence, as allowed by the court within the maximum limits fixed by this Commission, (b) current liabilities of Boston & Providence incurred in the ordinary conduct of its business prior to the institution of its reorganization proceeding which are entitled to priority over the Boston & Providence's debentures, (c) current liabilities and obligations of the Boston & Providence trustees incurred during its reorganization proceeding, (d) any and all taxes due to the United States, the Commonwealth of Massachusetts, the State of Rhode Island, and/or any city, town, or other political subdivision thereof, from the Boston & Providence or its trustees for any taxable period prior or subsequent to the date of confirmation of a plan of reorganization for the Boston & Providence, without requiring proof thereof in the reorganization and without prejudice by reason of not having been proved in the Boston & Providence reorganization proceeding, subject, however, to the statutes of limitations, if any, normally applicable to the assessment and collection of such taxes, and provided, further, that the liability of the Boston & Provdience for any taxes which are the subject of litigation on the date of the confirmation of the plan of reorganization, or which may become the subject of litigation on any date thereafter and prior to the expiration of the applicable statutes of limitations, shall be determined pursuant to law, and provided, further, that this provision shall not be deemed to preclude either the reorganized company, the Boston & Providence, or the latter's trustees, from contesting the merits of any such tax in the manner provided by law, and provided, further, that, with respect to taxes the funds for the payment of which were not advanced by the principal debtor's trustees, payment by the reorganized company shall be limited to such portion of the total amount thereof

as shall be agreed upon with the proper taxing authorities, provided, however, that nothing herein shall be construed as impairing or disturbing any present or future lien for taxes against any property and (e) the reorganized company shall assume and discharge any and all other claims against the Boston & Providence which, as of the date of confirmation of the plan of reorganization of the Boston & Providence, having been allowed by the court of jurisdiction in the proceeding for the reorganization of that corporation, excluding, however, any claims represented by the Boston & Providence debentures and any claims not ranking senior thereto.

(3) All claims against the Boston & Providence or its trustees held by the principal debtor or its trustees, including any claims of the Old Colony's trustees, and all claims against the principal debtor and the Old Colony or their trustees held by the Boston & Providence or its trustees shall be released, discharged, and canceled.

(4) Whenever any dividend or distribution is declared on the common stock of the reorganized company, (additional) funds in an amount hereinafter specified shall be set aside in a sinking fund and used for the purchase or redemption and retirement of the reorganized company's income bonds issued under the plan, and in case all of such income bonds shall have been retired, to the purchase or redemption and retirement of its preferred stock issued under the plan. The funds to be set aside in the sinking fund shall be equal to (1) the aggregate amount of the dividend or distribution declared on the common stock, times (2) the ratio of (a) the amount of the lease claim of the Boston & Providence (which for the purpose of this provision shall be $10,000,000) to (b) the aggregate amount of the allowed claims (including any allowed interest) of all other unsecured creditors exclusive of the Old Colony.

INTERSTATE COMMERCE ACT, ACT OF FEBRUARY 28, 1920, C. 91, SEC. 1; 41 STAT. 474, SEC. 1, AS AMENDED, 49 U.S.C. SEC. 1.

(17) . . . *Provided, however,* That nothing in this chapter shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except insofar as such requirement is inconsistent with any lawful order of the commission made under the provisions of this chapter.

MASSACHUSETTS GENERAL LAWS (TER. ED.) C. 159, SECS. 16 AND 16A.

SECTION 16. If the department is of opinion, after a hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any common carrier are unjust, unreasonable, unsafe, improper or inadequate, the department shall determine the just, reasonable, safe, adequate and proper regulations and practices thereafter to be in force and to be observed, and the equipment, appliances and service thereafter to be used, and shall fix and prescribe the same by order to be served upon every common carrier to be bound thereby. The department may after such a hearing, order any railway company to build and operate any just and reasonable extensions of its lines for which it may have been or may be granted locations and order from time to time that a railroad company shall operate its lines, of standard gauge, or such parts thereof as the department shall prescribe, by electric power instead of steam power, and in its order shall prescribe the time within which the work of electrification shall be done. Before making such order, the department shall consider the relative importance and necessity of the changes in any specific regulations, prac-

tices, equipment and appliances proposed to be included therein and of other changes which may be brought to its attention in the course of the hearing, the financial ability of the carrier to comply with the requirements of the order, and the effect of the carrier's compliance therewith, upon its financial ability to make such other changes, if any, as may be deemed by the department of equal or greater importance and necessity in the performance of the service which the carrier has professed to render to the public. Every such common carrier shall obey every requirement of every such order so served upon it, and do everything necessary or proper in order to secure absolute compliance with every such order by all its officers, agents and employees.

SECTION 16A. The department before authorizing any railroad to discontinue or abandon any of its lines, stations or other service, may consider, in addition to other facts, the revenues of said railroad from all sources.

MASSACHUSETTS GENERAL LAWS (TER. ED.) C. 160, SECS. 128, 129.

SECTION 128. A railroad corporation which has established and maintained a passenger station throughout the year for five consecutive years at any point upon its railroad shall not abandon such station, unless it is relocated under the following section, nor substantially diminish the accommodation furnished by the stopping of trains thereat as compared with that furnished at other stations on the same railroad, except with the written approval of the department after notice posted in and on said station for a period of thirty days immediately preceding a public hearing thereon.

SECTION 129. A railroad corporation may relocate passenger stations and freight depots, with the written ap-

proval of the department and of the board of aldermen of the city or the selectmen of the town where such stations or depots are situated.

MASSACHUSETTS ACTS AND RESOLVES OF 1896, C. 516.

AN ACT TO PROVIDE FOR A UNION STATION FOR PASSENGERS ON RAILROADS ENTERING THE SOUTHERLY PART OF THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Charles F. Choate, William Bliss, William T. Hart, Royal C. Taft, and Charles P. Clark, their associates and successors, are hereby make a corporation by the name of The Boston Terminal Company, with power to construct and maintain a union passenger station in the southerly part of the city of Boston, and to provide and operate adequate terminal facilities for the several railroad companies hereinafter authorized to hold the stock of said terminal company, and for the accommodation of the public in connection therewith.

SECTION 2. The capital stock of said corporation shall be five hundred thousand dollars, and the Boston and Albany Railroad Company, the New England Railroad Company, the Boston and Providence Railroad Corporation, the Old Colony Railroad Company, and the New York, New Haven and Hartford Railroad Company, being lessee of the Old Colony Railroad Company, may each subscribe for and hold one fifth portion of the said capital stock. The corporation may by by-laws regulate the terms and conditions upon which its stock may be transferred. All said capital stock shall be paid in in cash by said railroad companies before the corporation takes any land under the provisions of this act.

SECTION 3. The immediate government and direction of the affairs of said terminal company shall be vested in a board of five trustees, to be appointed at once on the organization of said company, one of whom shall be appointed by each of said railroad corporations from its directors, to hold office as such trustee at the pleasure of the corporation by whom he is so appointed; any vacancy to be filled in like manner. The trustees shall elect one of their number to be chairman, and may elect another to be vice chairman, and shall choose a clerk who shall be sworn, and a treasurer who shall give bond in the sum required by the by-laws, with surety, for the faithful discharge of his duties.

SECTION 4. Said terminal company, to provide means to carry out the purposes of this act, may from time to time issue coupon or registered bonds, in sums of not less than one hundred dollars each, payable at periods not exceeding one hundred years from the date thereof, bearing interest not exceeding four per cent. per annum, payable annually, semi-annually, or quarterly, to such an amount as may be necessary and as may be approved by the board of railroad commissioners. No bonds shall be issued unless approved in writing by at least three of the trustees of the corporation. Said corporation may mortgage or pledge as security for the payment of such bonds or of any bonds given in renewal thereof, a part or all of its real estate and other property. In case any mortgage made to secure bonds issued by the terminal company under the provisions of this act shall be foreclosed, and there shall not be thereby realized a sum sufficient to pay all the then outstanding bonds secured by said mortgage, said railroad companies shall be held liable to pay any deficiency in the amount required to pay all of said bonds and the interest thereon in such proportions as may be just and equitable, having regard to the use which they or their lessees may have

respectively had of the mortgaged property; and the supreme judicial court shall have jurisdiction in equity to determine such proportions and to compel such payments to be made, so that the full payment of the principal and interest of bonds issued under the provisions of this act by the terminal company shall not in any event fail. Any such mortgage shall be made to a trustee or trustees approved in writing by the board of savings banks commissioners, and savings banks and institutions for savings may invest in such bonds when so secured.

SECTION 5. Said terminal company may purchase or otherwise take in fee the whole or any part of the land in the city of Boston within the following limits, that is to say:—Beginning at the easterly corner of Atlantic avenue and a way called Summer street, thence bounded by the northerly line of said way extended to Fort Point channel; thence by said channel to Broadway; thence by Broadway to the westerly line of Lehigh street; thence by the westerly line of Lehigh street and by South street, Kneeland street and the westerly line of Cove street extended to Federal street; thence by the westerly line of Federal street to Summer street, and thence across public ways to the point of beginning; and may discontinue and occupy for its purposes all streets and rights of way embraced within the land so acquired: *provided, however,* that no land belonging to the Boston and Albany Railroad Company or to the Old Colony Railroad Company shall be taken by said terminal company without the consent of the directors of both of said railroad companies; and *provided, further,* that the portion of Federal street to be discontinued under the provisions of this act shall not be closed to travel prior to the completion of the extension of Summer street and the extension of Dorchester avenue hereinafter provided for, and the opening of the same to travel, unless a temporary provision for the travel over such portion of

Federal street, so that the travel shall not be interrupted, is provided for in some manner approved by the mayor, such temporary accommodation to continue until the completion of said Dorchester avenue and Summer street, and *provided, further,* that if said terminal company shall take for the purpose of this act any part of the land within the limits before described, owned by the Boston Gas Light Company, it shall take the whole of the land owned by said Boston Gas Light Company within said limits.

Section 6. Said terminal company, upon the passage of this act, shall forthwith organize, and thereupon the trustees thereof shall at once prepare plans and specifications for the construction of a union passenger station upon land herein-above authorized to be taken, adequate for the business to be accommodated, and of such construction as may be best adapted for the accommodation of the companies and of the public, exhibiting its form, dimensions of walls, rooms and partitions, and arrangements, and its location with reference to the adjacent streets and to the tracks of all said railroad companies located or proposed to be located in the vicinity thereof, and any projections over adjacent streets, so far as practicable, and shall submit said plans when completed to the mayor of Boston for his approval, who shall forthwith approve or disapprove them in writing. The trustees shall then at once submit said plans to the board of railroad commissioners for its approval, and said board, after notice to the railroad companies and to the mayor of Boston, and a hearing, shall approve the plans, or order such changes thereof as in their judgment the safety and convenience of the public and the interests of all said railroad companies require. Said station shall be constructed by the terminal company according to the plans thus approved by the board of railroad commissioners, or as the same may be changed, as hereinafter provided. The supreme judicial court, or any justice

thereof, shall have jurisdiction in equity to enforce the provisions of this section.

SECTION 7. Said terminal company, within three months after the plans of said union station are approved as above-provided, shall file in the registry of deeds for the county of Suffolk a location of the lands hereby authorized to be taken by it, or of such part thereof as it then deems it necessary to acquire, and shall proceed with all reasonable diligence to the construction and completion of such union passenger station according to said plans. But the trustees of the terminal company may from time to time propose to the mayor of Boston any changes in said plans, and the mayor shall forthwith approve or disapprove such changes in writing, and the trustees shall then at once submit such changes to the board of railroad commissioners, who, after notice to the mayor and to the railroad companies, and a hearing, shall approve the same, or order such modifications thereof as in their judgment the safety and convenience of the public and the interests of all said railroad companies require.

SECTION 8. Said terminal company, upon the completion of said union passenger station and grounds, shall make reasonable rules and regulations for their use; and the board of railroad commissioners, upon the application of either of said companies or of the mayor of the city of Boston, and a hearing may, from time to time, make any modification of such rules and regulations which they may deem just and reasonable. Such rules and regulations shall be binding upon all corporations and persons in the use of said station and grounds, and shall be enforced by railroad police officers who may be appointed upon the application of the terminal company, in the same manner and with the same powers in said station and grounds, and with like liability of the terminal company for their acts, as railroad police officers under the general law.

SECTION 9. All said railroad companies upon the completion of said station shall use the same, and the terminal facilities provided by said terminal company on the land herein-above authorized to be taken, for all of their terminal passenger business in Boston, instead of the passenger terminals now used by them, and the supreme judicial court, or any justice thereof, shall have jurisdiction in equity to enforce this provision; but said terminal company may contract with either of said railroad companies for the use of such separate and specified portion or portions of the terminal station hereinafter provided for as may be reasonably necessary for their respective use.

SECTION 10. Said railroad companies hereby required to use said union station shall pay to the terminal company for such use, in monthly payments, such amounts as may be necessary to pay the expenses of its corporate administration and of the maintenance and operation of said station, and of the facilities connected therewith and owned by said terminal company, including insurance and all repairs, all taxes and assessments which may be required to be paid by said terminal company, the interest upon its bonds or other obligations issued under the provisions of this act as the same shall become payable, and a dividend, not to exceed four per cent. per annum, upon its capital stock. Each of said railroad companies shall pay for such use of said station and facilities in the proportion in which it has the use thereof, the same to be fixed by the written agreement of all of said railroad companies before the completion of said station; and in case they fail thus to agree the board of railroad commissioners shall determine such proportions upon the application of said terminal company or of any of the railroad companies. Said proportions as thus fixed, either by agreement or by the decision of the board of railroad commissioners, may be revised and altered from time to time, either by the written agreement

of all of the railroad companies at any time, or by the board of railroad commissioners upon like application, at intervals of not less than three years. The decisions of the board of railroad commissioners fixing said proportions of payments shall be final and binding upon all of said railroad companies, and the payments required to be made by them respectively to said terminal company either by such agreement or decisions shall be deemed a part of their operating expenses, and the supreme judicial court or any justice thereof shall have jurisdiction in equity to compel such payments to be made, either by mandatory injunction or by other suitable process.

Section 11. In order to render the union station and passenger facilities herein provided to be constructed and maintained by the terminal company accessible and convenient for public use, the following changes shall be made by the board of street commissioners of the city of Boston in its streets and public places, to wit:—Lehigh street between South street and Broadway bridge shall be discontinued; Cove street shall be widened to the width of at least one hundred feet, and extended at the width to which it may thus be widened to Summer street extended as required by this act; all of Federal street between Essex street and Federal street bridge which is not embraced within land which the terminal company is authorized to take, or which is not included in the above widening or extending of Cove street, shall be discontinued; Summer street shall be extended at least one hundred feet in width from Purchase street to the harbor commissioners' line; Dorchester avenue shall be extended over Federal street bridge, and thence laid out at a width of ninety-two feet, upon the land which the terminal company shall convey to the city without compensation, substantially parallel with the harbor commissioners' line, to Summer street so extended, and said terminal company shall convey in fee to

the city such of its land acquired under this act as may be required by said street commissioners for said widening and extension of Cove and Summer streets, at its actual reasonable cost to said terminal company; Albany street and Broadway, and the bridges thereof over the Boston and Albany tracks, shall be changed so as to enable the two southerly main tracks and two additional main tracks south of them to be extended thereunder to the grounds of the terminal company. Said board of street commissioners shall discontinue, widen, and lay out said streets in such manner as may be approved by the mayor, and said city shall construct said streets and make said changes in said bridges as above-specified: *provided, however,* that the terminal company shall construct a bridge for the accommodation of foot passengers or a subway from the end of the new Cove street to meet Dorchester avenue at a convenient place, as determined by the railroad commissioners and street commissioners, sitting jointly, whenever said commissioners deem it necessary. The supreme judicial court or any justice thereof shall have jurisdiction in equity to enforce the provisions of this section.

Section 12. Said terminal company and the city of Boston may each release to the other any land which may be necessary for the uses of said terminal company, or for public ways or places respectively, upon such terms as may be agreed upon between the trustees of the terminal company and the mayor and the board of street commissioners of said city; and said railroad companies may convey to each other any land or interest in land in Boston owned by them respectively, which it may be found proper to transfer for convenience in the approach to or use of the station and grounds of said terminal company.

Section 13. For the purpose of paying any expenses incurred by the city of Boston in carrying out the provisions of this act the city council of said city may from time

to time, on the request of the mayor, authorize the city treasurer to issue notes, bonds or scrip of said city to the amount specified in any such request, for a term or terms not exceeding thirty years from the date thereof, provided the sum total of such amounts shall not exceed two million dollars. If the city council shall not within thirty days after a request from the mayor authorize the loan requested, then the city treasurer of said city shall, on the request of the mayor, issue and sell notes, bonds or scrip of said city, for the purpose of paying such expenses, which shall be outside of the debt limit, and shall be for such terms not exceeding five years, as said treasurer shall determine, provided that the amount of said loan shall not exceed two million dollars. All such notes, bonds or scrip, whether inside or outside of the debt limit, shall be negotiable, shall bear interest payable semi-annually, shall be registered or with interest coupons attached, and shall be sold and disposed of in such manner, at such times, at such prices, in such amounts, and at such rates of interest not exceeding four per cent. per annum, as said treasurer may determine; and any premiums received by said treasurer in the sale of any of said notes, bonds or scrip shall, if the notes, bonds or scrip are issued for a term of ten years or more, be paid to the board of commissioners of sinking funds of said city, and be by them placed in the sinking fund for the redemption of the loan created; otherwise they shall be applied to the payment of said notes, bonds or scrip, or to the payment of said expenses, as the mayor may determine.

Section 14. The board of street commissioners of the city of Boston shall, within two years after the completion of said union station, assess upon any real estate in the city of Boston which in the opinion of said board receives any benefit and advantage from the location and construction of said union station, Summer street and Cove street, beyond the general advantage to all real estate in said city,

a proportionate part of one half of the expense incurred by said city therefor, but in no case exceeding such benefit and advantage: *provided, however,* that said terminal company shall convey in fee to said city all the lands easterly of the westerly line of Dorchester avenue extended, without requiring any compensation therefor, and all the land except the piece between Purchase street and Atlantic avenue required for the laying out, widening and extension of Cove street and Summer street, at its actual reasonable cost to said company; and the city of Boston shall assume all such assessments which may be assessed upon land of said terminal company, or of either of said railroad companies, held for railroad purposes. Except as otherwise provided in this section, sections two, three, five, six, seven and eight of chapter fifty-one of the Public Statutes shall apply to assessments under this section.

Section 15. The Union Freight Railroad Company shall, upon the request of the terminal company or of the mayor of Boston, remove its tracks on Federal street as now existing, and relocate and maintain the same on Dorchester avenue as extended under this act, Summer street extended, or on Cove street and Summer street to Atlantic avenue, or on either of said routes, as they are or shall be established and constructed under the provisions of this act, with the same powers and privileges and subject to the same duties, restrictions and liabilities now existing as to said tracks as located in their present location, upon such locations and in such manner as may from time to time be approved by the mayor, and such relocations thereof shall be filed in the office of the city clerk. The supreme judicial court or any justice thereof shall have jurisdiction in equity to compel compliance with the provisions of this section.

Section 16. The West End Street Railway Company shall, upon the request of the terminal company or of the

mayor of Boston, remove its tracks on Federal street as now existing between Summer street and Federal street bridge, and relocate and maintain the same, with all necessary turn-outs and connections on Summer street as extended, on Dorchester avenue as extended and on Cove street as widened and extended under this act, upon such locations and in such manner as may be from time to time approved by the mayor; and such relocations thereof shall be filed in the office of the city clerk. The supreme judicial court or any justice thereof shall have jurisdiction in equity to compel compliance with the provisions of this section.

Section 17. The New England Railroad Company, for the purpose of connecting its road with the union station herein authorized to be constructed, may extend its road from a point in the city of Boston as near the northerly end of its South Bay drawbridge as it may find practicable, to said terminal company's grounds, and for that purpose may purchase or otherwise take in fee a strip of land not exceeding thirty feet in width through the land and location of the Old Colony Railroad Company, parallel to its main tracks as they may be then located, subject however to the right of the Old Colony Railroad Company to cross the same; and the New England Railroad Company, the Old Colony Railroad Company and the Boston and Providence Railroad Corporation may jointly or separately construct such bridges across Fort Point channel as may be required for the adequate connection of their roads with each other and with the grounds of the terminal company, the plans thereof to be approved by the harbor and land commissioners; and said New England Railroad Company may use the proceeds of bonds issued under its mortgage made the second day of September in the year eighteen hundred and ninety-five, and recorded with Suffolk county deeds on the twelfth day of September in the year eighteen

hundred and ninety-five, to pay any expenses incurred by it under the provisions of this act.

Section 18. The Boston and Providence Railroad Corporation, for the purpose of connecting its road with the union passenger station hereby required to be constructed, may extend its road from a point at or near Dartmouth street to said terminal company's grounds, and thus abolish the grade crossing of its road and the road of the Boston and Albany Railroad Company, and for that purpose may purchase or otherwise take in fee within seven years after the completion of said union passenger station, or within such further time as said corporations may with the approval of the railroad commissioners agree, a strip of land on the southerly side of and adjacent to the main tracks of the Boston and Albany Railroad Company as they shall be then established, not exceeding one hundred feet in width; but it shall not take any land of the Boston and Albany Railroad Company within seven feet of the main tracks of the railroad of that company as then existing, without the consent of the directors of that company. And for the purpose of providing a station and facilities for passengers and public accommodation as hereinafter provided, in substitution for its present passenger station and facilities at Park square, which such change of its road to enable it to use the union station will require to be abandoned, the Boston and Providence Railroad Corporation may purchase, or otherwise take in fee, any land within the following limits, to wit:—Bounded by land of the Boston and Albany Railroad Company, Columbus avenue, and Buckingham, Dartmouth, Harwich and Yarmouth streets, and the land now of the Boston and Providence Railroad Corporation, and any other land adjacent thereto, within such limits as the board of railroad commissioners may upon hearing in writing prescribe; and said corporation shall file a location of the land hereinbefore authorized to

be taken by it, or of so much thereof as it then deems it necessary to take, in the registry of deeds for the county of Suffolk, within three months after the plans for such station and facilities are approved as hereinafter provided, and shall thereupon, either alone or with the Boston and Albany Railroad Company, if they so agree, proceed with all reasonable diligence to the construction of a passenger station thereon as herein provided.

SECTION 19. The Boston and Providence Railroad Corporation shall, within six months after said terminal company files its first location of land herein authorized to be taken for the construction of a union passenger station, prepare plans and specifications for the construction of a passenger station and approaches thereto and facilities for passengers and public accommodation, which shall be an adequate substitute for its present passenger station and facilities at Park square, and adequate for the business to be accommodated, and of such construction as may be best adapted for the accommodation of the railroad and the public, exhibiting its form, dimensions of walls, rooms, and partitions and arrangements, and its location with reference to the adjacent streets and to the tracks of all railroad companies located or proposed to be located in the vicinity thereof, and any projection over adjacent streets, so far as practicable, and shall submit said plans when completed to the mayor of Boston for his approval, who shall forthwith approve or disapprove them in writing. The Boston and Providence Railroad Corporation shall then at once submit said plans to the board of railroad commissioners for its approval, and said board, after notice to the railroad companies and to the mayor of Boston, and a hearing, shall approve the plans, or order such changes thereof as in their judgment the safety and convenience of the public and the interests of the railroad companies require. Said station, approaches and facilities shall be constructed and

provided by the Boston and Providence Railroad Corporation according to the plans thus approved by the board of railroad commissioners, or as the same may be changed as hereinafter provided, and the supreme judicial court or any justice thereof shall have jurisdiction in equity to enforce the provisions of this section. But the Boston and Providence Railroad Corporation may from time to time propose to the mayor of Boston any changes in the plans for said station, approaches and facilities, and the mayor shall forthwith approve or disapprove such changes in writing, and the corporation shall then at once submit such changes to the board of railroad commissioners who, after notice to the mayor and the railroad companies, and a hearing, shall approve the same, or order such modifications thereof as in their judgment the safety and convenience of the public and the interests of the railroad companies require.

SECTION 20. The Boston and Providence Railroad Corporation and its lessees, upon the completion of said union station and of the station or stations herein required to be constructed near Dartmouth street, shall abandon the use of their present station in Park square for railroad purposes, and their railroad northerly of the crossing of the railroad of the Boston and Albany Railroad Company near and easterly of Dartmouth street, and the board of street commissioners of the city of Boston shall lay out, and said city shall construct, suitable approaches to said station or stations to be constructed near Dartmouth street, in such directions and at such grades as said board shall deem the public convenience and necessity require, and as the mayor of said city shall approve.

SECTION 21. The Boston and Albany Railroad Company shall contract with the Boston and Providence Railroad corporation and with its lessees for the construction or common use of said station and facilities, or for the con-

struction and use of a joint station at or near said point, in accordance with plans and specifications to be prepared and approved in the manner herein-above provided for the preparation and approval of plans for the construction of a station by the Boston and Providence Railroad Corporation, or if it does not so contract, then upon the completion of the union passenger station it shall construct and open for public use a station or stations adequate for the accommodation of the public, at some point or points near Dartmouth street, and for that purpose it may purchase or otherwise take in fee any land within the following limits, to wit: Bounded southerly by the location of the Boston and Albany Railroad Company westerly by Dartmouth street, northwesterly by land of the heirs of Eben D. Jordan, Trinity place, and land of the Massachusetts Institute of Technology, and easterly by the westerly line of Clarendon street extended. And whenever a station upon the tract of land herein above-described is opened for use, the Boston and Albany Railroad Company may discontinue its present passenger stations at Columbus avenue and Huntington avenue. The supreme judicial court or any justice thereof shall have jurisdiction in equity to compel compliance with the provisions of this section.

Section 22. The Boston and Albany Railroad Company, within six months after the completion of said union station, shall abandon its present location from the southerly line of Kneeland street northerly to Beach street, and shall remove its tracks from the present grade crossing on Kneeland street between Lincoln street and Albany street, and, for the purpose of extending its terminal facilities may, from time to time, purchase or otherwise take in fee, the whole or any part of the tract of land bounded and described as follows: Northerly by Kneeland street between the westerly side of Utica street and the easterly side of South street; easterly by the easterly line of South street

to Lehigh street; thence across and by the westerly line of South street to the southerly line of Harvard street, so-called; southerly by the south line of Harvard street, so-called, to the westerly line of Utica street; and westerly by said line of Utica street to Kneeland street; and may discontinue and occupy for its purposes all streets and rights of way embraced within said limits, and may also take and discontinue any public or private ways within the tract of land bounded by Kneeland street, Albany street, Broadway, Lehigh street and South street.

SECTION 23. The laws of the Commonwealth relating to the taking of lands for railroad purposes, and the location and construction of railroads, and the assessment of damages occasioned thereby, shall be applicable to and govern the proceedings in the taking of land hereby authorized to be taken by said terminal company or by any railroad company, except that the locations shall be filed in the registry of deeds, as herein provided, and in case the parties, including mortgagees, cannot agree upon said damages, upon petition of any such party filed within one year after the taking of the land, in the clerk's office of the superior court for Suffolk county, the same shall be assessed by a jury in that court. But if any owner of land taken and all mortgagees thereof shall elect to have the damages assessed by a commission of three disinterested persons appointed by the court, the court shall appoint such commission to assess said damages, and their award, or the award of the major part of them, when made and accepted by the court, shall be final, unless either party shall within sixty days thereafter appeal therefrom, in which case the damages shall be assessed by a jury in that court.

SECTION 24. No owner of any land taken under the provisions of this act shall be required to vacate his premises until three months after a location has been filed, taking the land, and the Boston Gas Light Company shall not be

required to vacate the whole or any part of the premises now owned or occupied by it until six months after such filing, or until after such further time, not exceeding fifteen months from the time of such filing and notice, as the board of railroad commissioners and the board of gas and electric light commissioners, who are for this purpose constituted a joint board, may, upon the application of either the railroad company or the gas company, made at any time after the passage of this act, after hearing, prescribe in writing.

SECTION 25. The terminal company shall pay a franchise tax to the Commonwealth upon the true market value of its capital stock, without any deduction whatever, but its real estate required by this act to be used by said railroad companies shall be assessed to and the taxes thereon shall be paid by said railroad companies, and in the assessment of franchise taxes upon said railroad companies each of them shall be deemed to be the owner of said real estate in the proportion in which it then has the use thereof under this act.

SECTION 26. This act shall take effect upon its passage.

Approved June 9, 1896.